

Senate Study Bill 3167 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON WARNSTADT)

A BILL FOR

1 An Act modifying disciplinary provisions applicable to real
2 estate brokers and salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 543B.15, subsection 5, Code 2009, is
2 amended to read as follows:

3 5. A person who makes a false statement of material fact
4 on an application for a real estate broker's or salesperson's
5 license, or who causes to be submitted, or has been a party to
6 preparing or submitting any false application for such license,
7 may be denied a license by the commission on the grounds of the
8 false statement or submission. ~~A licensee found to have made
9 such a statement or who caused to be submitted, or was a party
10 to preparing or submitting any false application for a real
11 estate broker's or salesperson's license, may have the license
12 suspended or revoked by the commission on the grounds of the
13 false statement or submission.~~

14 Sec. 2. Section 543B.15, subsection 6, Code 2009, is amended
15 by striking the subsection.

16 Sec. 3. Section 543B.15, subsection 7, Code 2009, is amended
17 to read as follows:

18 7. The commission, when considering the denial ~~or~~
19 ~~revocation~~ of a license pursuant to this section, shall
20 consider the nature of the offense; any aggravating or
21 extenuating circumstances which are documented; the time
22 lapsed since the revocation, conduct, or conviction; the
23 rehabilitation, treatment, or restitution performed by the
24 applicant ~~or licensee~~; and any other factors the commission
25 deems relevant. Character references may be required but
26 shall not be obtained from licensed real estate brokers or
27 salespersons.

28 Sec. 4. Section 543B.29, subsection 1, Code 2009, is amended
29 by adding the following new paragraph:

30 NEW PARAGRAPH. *Ob.* Having made a false statement of
31 material fact on an application for a real estate broker's
32 or salesperson's license, or having caused to be submitted,
33 or having been a party to preparing or submitting any false
34 application for such license.

35 Sec. 5. Section 543B.29, subsection 1, paragraph e, Code

1 2009, is amended to read as follows:

2 e. Conviction of an offense included in section 543B.15,
3 subsection 3. For purposes of this section, "conviction" means
4 a conviction for an indictable offense and includes the court's
5 acceptance of a guilty plea, a deferred judgment from the time
6 of entry of the deferred judgment until the time the defendant
7 is discharged by the court without entry of judgment, or other
8 finding of guilt by a court of competent jurisdiction. A copy
9 of the record of conviction, guilty plea, deferred judgment, or
10 other finding of guilt is conclusive evidence.

11 (1) A licensed real estate broker or salesperson shall
12 notify the commission of the licensee's conviction of an
13 offense included in section 543B.15, subsection 3, paragraph
14 "a", within ten days of the conviction. Notification of a
15 conviction for an offense which is classified as a felony shall
16 result in the immediate suspension of a license pending the
17 outcome of a hearing conducted pursuant to section 543B.35 to
18 determine the nature of the disciplinary action, if any, the
19 commission will impose on the licensee. The hearing shall be
20 conducted within thirty days of the licensee's notification to
21 the commission, and the commission's decision shall be provided
22 to the licensee no later than thirty days following the
23 hearing. The failure of the licensee to notify the commission
24 of the conviction within ten days of the date of the conviction
25 is sufficient grounds for revocation of the license.

26 (2) The commission, when considering the revocation or
27 suspension of a license pursuant to paragraph "e", shall
28 consider the nature of the offense; any aggravating or
29 extenuating circumstances which are documented; the time lapsed
30 since the conduct or conviction; the rehabilitation, treatment,
31 or restitution performed by the licensee; and any other factors
32 the commission deems relevant. Character references may be
33 required but shall not be obtained from licensed real estate
34 brokers or salespersons.

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EXPLANATION

2 This bill modifies disciplinary provisions applicable
3 to real estate brokers and salespersons licensed under
4 Code chapter 543B, making adjustments intended to clarify
5 the distinction between provisions relating to suspension
6 or revocation in the Code chapter, and those relating to
7 qualification for initial licensure.

8 The bill removes a provision from Code section 543B.15,
9 which relates to qualifications for issuance of a license,
10 subjecting a licensee to possible suspension or revocation
11 if the licensee is found to have made a false statement of
12 material fact on an application, or caused to be submitted or
13 was a party to preparing or submitting any false application.
14 The provision is reinserted within Code section 543B.29,
15 subsection 1, dealing with revocation or suspension of a
16 license.

17 The bill also removes a provision requiring a licensee
18 to notify the real estate commission of the conviction of
19 specified offenses from Code section 543B.15, and reinserts
20 it as a new subparagraph in Code section 543B.29, subsection
21 1, paragraph "e", which deals with license revocation or
22 suspension upon conviction of specified offenses. Provisions
23 imposing time frames for the conducting of a hearing after
24 the notification, and providing notice of the outcome of the
25 hearing to the licensee, are added.

26 The bill also reproduces within Code section 543B.29,
27 subsection 1, paragraph "e", another qualification-related
28 provision currently contained in Code section 543B.15, relating
29 to factors to be considered by the commission in considering
30 suspension or revocation of a license. The current provision
31 in Code section 543B.15 is modified such that it deals strictly
32 with factors to be considered by the commission in considering
33 whether to deny a license.

34 The bill additionally clarifies that when a license may
35 be revoked or suspended based upon conviction of an offense,

S.F. _____

1 the current qualification of a guilty plea as a "conviction"
2 actually refers to acceptance of such a plea by the court.